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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971.

No. 71-1403.

FORBES LEASING AND FINANCING CORPORATION,

Petitioner,

v.

MARVIN LEBOWITZ,

Respondent,

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.

BRIEF FOR RESPONDENT IN OPPOSITION.

I. OPINIONS BELOW.

The opinion of the District Court is reported at 326 F. Supp. 1335 (App. A10-A50). The opinion of the Court of Appeals for the Third Circuit and the concurring opinion are reported at 456 F. 2d 979 (App. A1-A7).

II. JURISDICTION.

The jurisdictional requisites are adequately set forth in the Petition (Petition at 2).

III. QUESTION PRESENTED.

Does the decision of this Court in *Sniadach v. Family Finance Corporation*, 395 U. S. 337 (1969), which held the Wisconsin Pre-Judgment Wage Garnishment Law unconstitutional because it "as a practical matter drives a wage earning family to the wall", compel a finding that the Pennsylvania Foreign Attachment Procedure is unconstitutional?

IV. RULES OF CIVIL PROCEDURE AND CONSTITUTIONAL PROVISIONS INVOLVED.

The Rules of Civil Procedure and Constitutional Provisions involved are fully set forth in the Appendix (App. A53-A70). In addition, this case involves Article III, Section 2 of the United States Constitution, and California Constitution, Article I, Section 13, set forth in the Supplemental Appendix (SA 1).

V. COUNTER-STATEMENT OF THE CASE.

Petitioner Forbes Leasing and Financing Corporation (Forbes) is a foreign corporation incorporated in Delaware in September of 1970 and not registered to do business in Pennsylvania. Forbes is the wholly owned subsidiary of Network Cinema Corporation (Network), and is used to obtain financial commitments for Network in the latter's business of franchising mini-theatres. Neither corporation has offices in Pennsylvania.

Forbes, in September of 1970, entered into an employment agreement with Lebowitz, an individual and resident of Philadelphia, Pennsylvania, under which Lebowitz was to obtain financial commitments for Forbes and receive a salary of up to $60,000 per year plus an option to purchase twenty percent (20%) of the outstanding stock of Forbes. As an added incentive, Network entered into an agreement with Lebowitz permitting Lebowitz to purchase an additional ten percent (10%) of the stock of Forbes based on the funding commitments Lebowitz obtained.

Lebowitz rented a small office on behalf of Forbes in the Lafayette Building in Philadelphia and obtained from Forbes and Network funding commitments from the Girard Bank in December of 1970 totaling in excess of $120,000. In late January of 1971, having the commitment from the Girard Bank, the Board of Directors of Forbes in New York, without prior notice to Lebowitz, fired him as an officer, ordered the telephone company to discontinue all service to the Philadelphia office and effectively terminated Forbes' connection with Lebowitz and his office.

On January 27, 1971, Lebowitz commenced an action in the Court of Common Pleas of Philadelphia County seeking damages and an immediate preliminary injunction

against Forbes and Network and their officers to stop the defendants from removing equipment and furnishings from his office, and enjoining them from further negotiations on their own behalf with Girard Bank.

As Forbes could not be served in Philadelphia, and would not authorize its Philadelphia Counsel to accept service, Lebowitz by his Counsel, on February 1, 1971, caused a Writ of Foreign Attachment to issue attaching the accounts of Forbes at the Girard Bank and First Pennsylvania Bank totaling approximately Seventy Five Thousand Dollars.

Following the attachments, Philadelphia Counsel entered its appearance for Forbes and removed the action to the United States District Court for the Eastern District of Pennsylvania. Forbes moved to have the attachments quashed as unconstitutional under *Sniadach* but did not present any testimony to the District Court, nor were any findings of fact made by Judge Becker.

Counsel for Forbes did represent in oral argument that forty percent (40%) of Forbes' liquid assets were attached, and that its business was "paralysed" but Judge Becker did not, and indeed could not, make a finding as to the effect on Forbes of the attachment. As a result this record discloses no evidence of the financial burden, if any, placed on Forbes by the attachment.

Judge Becker did, however, erroneously report in his opinion that at "all times revelant hereto Forbes maintained an office in Philadelphia" and that Forbes "had an office and telephone in Philadelphia" (App. A36) when it was undisputed that Lebowitz had been fired, the telephone service was being discontinued and there was no one from Forbes who could have been served in Philadelphia.

In a lengthy opinion Judge Becker reluctantly denied Forbes' motion to quash the attachment, admitting that

Supreme Court precedents cited in *Sniadach* appeared to justify foreign attachment.

After the decision of the District Court, upon Forbes' motion the attached funds were consolidated into one interest bearing account at the Girard Bank (SA 2-SA 3).

On February 24, 1972 the Court of Appeals for the Third Circuit affirmed the validity of the Pennsylvania Foreign Attachment Rules.

Although Forbes admitted it could have filed the required bond (App. A32) it nevertheless asserted that its business had been "paralysed" and that "40% of its assets" had been attached (App. A31). Judge Becker attempted to explain Forbes' curious failure to file a bond in the face of financial paralysis by taking judicial notice of the "fact" that bonds require security and bond obligations appear on financial statements (App. A32).

Nevertheless Forbes promptly filed a bond after losing in the Court of Appeals. The bond filed was not in the amount of twice the claim ($400,000) but only in the amount of the attachment, approximately $75,000 (SA 4-SA 5). Forbes has had, since the filing of the bond, full and unrestricted use of the funds, plus accrued interest, and presumably is not now, if it ever was, "paralysed".

VI. ARGUMENT.

A. Forbes' Filing of a Bond After the Decision of the Court of Appeals Has Rendered This Petition Moot.

This Court's jurisdiction is limited by Article III, Section 2, of the Constitution to "cases" and "controversies". As this clause has been interpreted, this Court has constitutional jurisdiction only over actual cases and controversies between adverse interests, with respect to which the Court's judgment will be effective. *See generally Powell v. McCormack*, 395 U. S. 486 (1969); Note, *Cases Moot On Appeal: A Limit on the Judicial Power*, 103 U. Pa. L. Rev. 772 (1955). Thus, this Court may not deliver advisory opinions. Similarly, this Court may not consider the merits of a moot case. *See Powell v. McCormack*, 395 U. S. at 496 n. 7. "Simply stated, a case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Id.* at 496.

Since March 14, 1972 when Forbes caused a bond to be filed with the District Court it has had full and unrestricted use of the funds. Were Forbes to prevail in this Court, it would in no way benefit, since it has already obtained dissolution of the attachment. Petitioner has "nothing to gain from a decision in his favor", Note, *Cases Moot on Appeal: A Limit on the Judicial Power*, 103 U. Pa. L. Rev. 772, 773 (1955); the issue is no longer "live" and Forbes has no "legally cognizable interest in the outcome." *Powell v. McCormack*, 395 U. S. 496. Thus the appeal has become, by definition, moot.

B. The Decision Below Is Clearly Correct, and Does Not Present a Substantial Federal Question.

1. The Pennsylvania Foreign Attachment Procedures Assure Procedural Due Process.

It is settled that due process does not require a pre-seizure hearing in all cases but rather demands that there be a reasonable opportunity to be heard and present a defense in some meaningful time and in some meaningful manner. *See Grannis v. Ordean*, 234 U. S. 385 (1914); *Coffin Brothers v. Bennett*, 277 U. S. 29 (1927); *Phillips v. Commissioner*, 283 U. S. 589 (1931); *Armstrong v. Manzo*, 380 U. S. 545 (1965); *Boddie v. Connecticut*, 401 U. S. 371 (1971).

"Due process requires that there be an opportunity to present every available defense; but it need not be before the entry of judgment." *American Surety Company v. Baldwin*, 287 U. S. 156, 168 (1932). *Cf. D. H. Overmyer Co. v. Frick Co.*, 405 U. S. 174 (1972).

Due process does not require the same procedural rule in all cases: "A procedural rule that may satisfy due process in one context may not necessarily satisfy procedural due process in every case." *Bell v. Burson*, 402 U. S. 535, 540 (1971).

In *Sniadach* only a pre-attachment hearing would satisfy due process. The garnishment of wages was so onerous that the debtor was under pressure to pay the debt and collection charges or sign a new contract which incorporated the additional charges without further resort to the Courts. The debtor simply could not take advantage of whatever post-garnishment procedures were available because of the catastrophic effect of wage attachment. In short, the means by which suit was instituted foreclosed, as a practical matter, the right to assert a defense.

Wages and salaries have been exempt from foreign attachment in Pennsylvania since 1845, *Sheryl Records, Inc. v. The Cyrkle*, 431 Pa. 299, 245 A. 2d 454 (1968).

The Pennsylvania Foreign Attachment Rules provide several post-attachment procedures by which the property attached may be immediately released:

(1) Forbes had the right to file a bond in double the amount of the Plaintiff's claim or *in such lesser amount as the Court may direct.* (Pa. R. Civ. P. 1272c);

(2) Forbes had the right to immediately petition the Court to release part of the attached property if the value of the property attached was excessive compared to the amount in controversy. (Pa. R. Civ. P. 1272h);

(3) If Forbes was concerned that the amount of Lebowitz's claim was inflated it had the right to immediately petition the Court and present evidence to show that the "amount in controversy" did not justify the amount attached.

In fact, Forbes did eventually file a bond *in the amount of the attachment.* See Stipulation (SA 4-SA 5).

It is thus clear that the Pennsylvania Rules did fulfill the requirements of due process by affording Petitioner a "meaningful opportunity to be heard" within the limits of practicability. *Boddie v. Connecticut*, 401 U. S. 371, 379 (1971).

2. *Sniadach* Was Based on a Denial of Due Process Caused by a Procedure So Onerous as to Preclude the Individual Debtor From Receiving a Meaningful Hearing. The Procedure Herein Did Not Deprive Petitioner of a Meaningful Hearing.

Sniadach clearly indicated that it was not reviewing a broad spectrum of creditor remedies, but rather a particular problem with particularly egregious consequences.

> "We deal here with wages—a specialized type of property presenting distinct problems in our economic system. . . .
>
> A prejudgment garnishment of the Wisconsin type is a taking which may impose tremendous hardship on wage earners with families to support. Until a recent Act of Congress, § 304 of which forbids discharge of employees on the ground that their wages have been garnished, garnishment often meant the loss of a job. Over and beyond that was the great drain on family income. As stated by Congressman Reuss:
>
> > 'The idea of wage garnishment in advance of judgment, of trustee process, of wage attachment, or whatever it is called is most inhuman doctrine. It compels the wage earner, trying to keep his family together, to be driven below the poverty level.'
> >
> > . . .
>
> The result is that a pre-judgment garnishment of the Wisconsin type may as a practical matter drive a wage-earning family to the wall." 395 U. S. at 340-42 (footnotes omitted).

Later decisions of this Court have further emphasized the limitation of the *Sniadach* rule to similar situations

where an individual's ability to support his family is seriously impaired.

Because of the "brutal need" of families receiving welfare assistance, *Goldberg v. Kelly*, 397 U. S. 254 (1970), held that a pre-termination hearing was required. See also *Bell v. Burson*, 402 U. S. 535 (1971) (suspension of driver's license when "essential in the pursuit of a livelihood").

The situation in the present case is clearly outside the scope of *Sniadach* and the later cases.

Forbes' failure to present any evidence whatsoever of the effect of the attachment and its ability to wage expensive litigation for almost 1½ years before filing a Bond hardly supports its attempted analogy.

Forbes is not a wage earner, but a wholly owned subsidiary of Network Cinema Corporation. It is in the business of obtaining financial commitments. There is no reasonable analogy between Forbes and a wage-earning family which is "driven to the wall", an indigent welfare recipient deprived of benefits, or an individual deprived of a driver's license essential in the pursuit of his livelihood. The "distinct problems" of wage garnishment considered in *Sniadach* simply are not present in this case, and *Sniadach* is not applicable.

Furthermore, even if the analogy could be drawn to a business corporation unable to receive a meaningful hearing there is absolutely no evidence that Petitioner was at all hampered by the attachment; in fact, *it chose not to dissolve the attachment* until after the decision of the Court of Appeals even though it admittedly could have afforded to post bond from the beginning. See Opinion of the District Court (App. A32).

Petitioner, a corporation, was in no way prevented from receiving a meaningful hearing. The citation by Judge Becker of a few lower court cases purporting to ex-

tend *Sniadach* is heavily outweighed by decisions limiting *Sniadach* to the garnishment of wages. *See Johnson v. Cunningham*, 12 Cal. App. 3d 123, 90 Cal. Rptr. 487 (1970); *Termplan, Inc. v. Superior Court*, 105 Ariz. 270, 463 P. 2d 68 (1969); *Andrew Brown Co. v. Painters Warehouse, Inc.*, 11 Ariz. App. 571, 466 P. 2d 790 (1970); *American Olean Tile Co. v. Zimmerman*, 317 F. Supp. 150 (D. C. Ha. 1970); *Black Watch Farms, Inc. v. Dick*, 323 F. Supp. 100 (D. Conn. 1971); *Brunswick Corp. v. J & P, Inc.*, 424 F. 2d 100 (10th Cir. 1970); *Fuentes v. Faircloth*, 317 F. Supp. 954 (S. D. Fla. 1970); *In Re 300 W. 15th St. Realty Co.*, 26 N. Y. 2d 538, 260 N. E. 2d 534 (1970).

3. The Pennsylvania Foreign Attachment Rules Serve a Legitimate Governmental and Creditor Interest in the Present Case.

Forbes recognizes that "[t]he state has a valid interest in protecting its residents so that they may assert within the state claims against non-residents doing business within the state." (Petition at 9). Yet it then argues that the two ways in which the attachment rules protect Pennsylvania residents are invalid. Of course, the state and creditor interests are greatest before the court has obtained personal jurisdiction. Petitioner does not contest the validity of the interest in obtaining personal jurisdiction; but instead argues that foreign atttachment is an unconstitutional method of doing so because there are alternative means—Pennsylvania's "long-arm" statute. 15 Pa. Stat. § 2011 (1961). However, as the Court of Appeals recognized (App. A5-A6), the attachment procedures serve a valid state and creditor interest by providing an "immediate and certain" basis for jurisdiction over a non-resident defendant; in doing so it "constitutes a greater inducement for such a defendant to appear." Service by long-arm

statute can be contested, depositions may be taken to show the unavailability of the long-term statute while the nonresident defendant removes his property from the state.

Even after jurisdiction has been obtained, however, there remains an interest in assuring that a judgment obtained can be satisfied. Although the debtor may be subject to the jurisdiction of the Court, the creditor's interests are hardly protected if any judgment which is obtained cannot be satisfied, or can only be satisfied after further costly and troublesome litigation. Thus it has long been recognized that there is a valid state and creditor interest in preserving property within the jurisdiction in order to satisfy a judgment obtained against the debtor. *Cf., e.g., McKay v. McInnes*, 279 U. S. 820 (1929), *affirming* 127 Me. 110, 141 A. 699 (1928).

This case is precisely the kind of case for which the Foreign Attachment Rules are necessary and appropriate. Petitioner is a Delaware Corporation which is not registered to do business in Pennsylvania. Its facilities in Pennsylvania are nonexistent, and the balance of the checking account could easily have been withdrawn, and by now probably has been withdrawn. It is a wholly owned subsidiary of Network Cinema Corp., also a defendant, and is no more than a bag of assets which can be emptied at the will of its parent.

In the circumstances of this case, it is clear that the Foreign Attachment Rules appropriately serve valid state and creditor interests.

4. There Is No Conflict Between the Decision Below and the Decision of the Supreme Court of California on an Issue of Federal Constitutional Law.

Petitioner argues that the decision of the Supreme Court of California in *Randone v. Appellate Department*

of the Superior Court, 5 Cal. 3d 536, 488 P. 2d 13, 96 Cal. Rptr. 709 (1971), *petition for cert. filed sub nom. Northern California Collection Services, Inc. v. Randone*, 40 U. S. L. W. 3375 (U. S. Jan. 11, 1972), conflicts with the decision of the Court of Appeals here. Although *Randone* does deal with an attachment proceeding, that case does not conflict with the decision below for two reasons.

a. *Randone* Rests Upon Adequate and Independent Nonfederal Grounds.

It is established law that this Court will not review state court judgments which rest on adequate and independent nonfederal grounds, notwithstanding the presence of federal grounds; *e.g., Department of Mental Hygiene of California v. Kirchner*, 380 U. S. 194 (1965); *Henry v. Mississippi*, 379 U. S. 443, 447 (1965). Like the California Supreme Court opinion in *Kirchner*, 60 Cal. 2d 716, 388 P. 2d 720, 36 Cal. Rptr. 488 (1964), the opinion in *Randone* was based on both the California and Federal Constitutions. Article I, Section 13 of the California Constitution contains language virtually identical to the Due Process Clauses of the Federal Constitution (Amendments 5 and 14). Thus, despite its holding that the case is also based on the Federal Constitution, the court in *Randone* must be regarded as primarily basing its holding on the State Constitution—an adequate and independent nonfederal ground. *Cf. Department of Mental Hygiene of California v. Kirchner*, 380 U. S. 194 (1965).

b. *Randone* Is Clearly Distinguishable From the Decision Below.

Unlike the decision below, *Randone* involved the attachment of property of *persons* who were *residents* of the state. The record in *Randone* contained evidence of the

hardship caused the Randones by the attachment—evidence that the attachment could result in impairment of their ability to participate effectively in the judicial proceedings. Furthermore, the governmental and creditor interests were slight—the Randones were unlikely to move from the state simply to make a judgment in the case uncollectable.

By contrast, Forbes is a corporation. There is no evidence of any hardship caused by the attachment. Even if, as alleged by Petitioner, 40% of its assets were attached, there is no evidence that the attachment impaired Petitioner's ability to participate in judicial proceedings. And even if Forbes was impaired, the impairment was at its own choosing. As noted in the opinion of the District Court (App. A32), Petitioner could in fact afford the bond.

Similarly, the governmental and creditor interests in this case are much stronger than in *Randone*. Petitioner is a Delaware Corporation which is not registered to do business in Pennsylvania. Its facilities in Pennsylvania are nonexistent, and the danger of such a debtor removing its property from the jurisdiction is quite real. This danger was greatest before the Entry of Appearance; however, even after personal jurisdiction has been obtained, the creditor's interests are hardly protected if the property can be removed from the jurisdiction, thus posing a reasonable possibility that any judgment would go unsatisfied. The circumstances of this case are such that in the absence of the attachment it would be simple and easy for Petitioner to remove its property from the jurisdiction. Thus, as distinguished from *Randone*, here there is a substantial governmental and creditor interest which is served.

C. This Case Presents No Substantial Questions Under the Fourth Amendment.

Petitioner argues that the Pennsylvania Foreign Attachment Rules lead to a seizure of a bank account by a state officer which constitutes a violation of the Fourth

Amendment. It asserts that "The purpose of the Fourth Amendment is to make people secure in their houses and possessions." (Petition at 21). Yet Petitioner cites no authority for the proposition that the attachment of a bank account is an unconstitutional seizure under the Fourth Amendment, if indeed it is a seizure at all in the constitutional sense.

Both courts below found no merit in Petitioner's Fourth Amendment arguments and disposed of them without discussion. These Fourth Amendment arguments are entirely without merit, and present no significant constitutional questions.

VII. CONCLUSION.

For the foregoing reasons it is respectfully submitted that the petition for a Writ of Certiorari should be denied.

Respectfully submitted,

EDWARD GREER,
HENRY A. STEIN,
1510 Fidelity Building,
Philadelphia, Pa. 19109,
Attorneys for Respondent.

Of Counsel:
MESIROV, GELMAN, JAFFE
& LEVIN.

Certificate of Service.

I hereby certify that on this 9th day of June, 1972, three copies of this Brief in Opposition to Petition for a Writ of Certiorari were hand delivered to the office of Lawrence Silver, Esquire, Dilworth, Paxson, Kalish, Levy and Coleman, 2600 Fidelity Building, Philadelphia, Pennsylvania 19109.

I further certify that all parties required to be served have been served.

HENRY A. STEIN,
1510 Fidelity Building,
Philadelphia, Pa. 19109,
Attorney for Respondent.

SUPPLEMENTAL APPENDIX.

United States Constitution, Article III, Section 2, Clause 1:

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

California Constitution, Article I, Section 13:

> . . . No person shall be twice put in jeopardy for the same offense; nor compelled in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law. . . .

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

CIVIL ACTION No. 71-369.

MARVIN LEBOWITZ,

Plaintiff

v.

FORBES LEASING AND FINANCE CORPORATION (A FOREIGN CORP.); BENJAMIN OGUREK; ORCHID FARALES; NETWORK CINEMA CORPORATION AND JERRY ENTMAN,

Defendants

AND

THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, ET AL.,

Garnishees.

ORDER.

Upon the motion of the defendant, Forbes Leasing and Finance Corporation, and upon consent of counsel for the plaintiff and the said defendant and The First Pennsylvania Banking and Trust Company, one of the Garnishees, it is hereby ordered this 8th day of June, 1971:

1. That the said Garnishee, The First Pennsylvania Banking and Trust Company, shall transfer the balance in the checking account of Forbes Leasing and Finance Corporation (Account No. 371-565-3) in the amount of $4,293.34, less the sum of $26.50 as the Garnishee's attorney's fee of $25.00 and costs of $1.50 to be paid to Saul, Ewing, Remick and Saul, attorneys for the said Garnishee, or the net amount of $4,266.84

to account No. 2-360-667 in Girard Trust Bank, another Garnishee.

2. That upon said transfer the attachment as to The First Pennsylvania Banking and Trust Company, Garnishee, only shall be dissolved and the said Garnishee shall no longer be a party to this proceeding.

3. The fund so transferred to the account at Girard Trust Bank shall remain subject to the attachment and all interest accruing thereon together with the principal thereof shall not be distributed or in any manner released pending further order of this Court or except as provided by the applicable Pennsylvania Rules of Civil Procedure.

.....

EDWARD R. BECKER, *J.*

CONSENT:

.....

LAWRENCE SILVER,
Counsel for Defendant,
Forbes Leasing and Finance Corporation.

.....

HENRY A. STEIN,
Counsel for Plaintiff,
Marvin Lebowitz.

.....

GORDON W. GABELL of SAUL, EWING, REMICK & SAUL,
Counsel for Garnishee, The First Pennsylvania Banking and Trust Company.

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

CIVIL ACTION NO. 71-369.

MARVIN LEBOWITZ,

Plaintiff,

v.

FORBES LEASING AND FINANCE CORPORATION (A FOREIGN CORP.); BENJAMIN OGUREK; ORCHID FARALES; NETWORK CINEMA CORPORATION AND JERRY ENTMAN,

Defendants.

STIPULATION.

FILED MARCH 14, 1972.

AND NOW, this 14th day of March, 1972, pursuant to Rule 64 F. R. C. P. and therefore pursuant to Rule 1272 Pa. F. R. C. P., it is hereby stipulated by plaintiff Marvin Lebowitz and defendant Forbes Leasing and Finance Corporation, by and through their counsel, as follows:

1. Defendant Forbes Leasing and Finance Corporation shall cause Fidelity and Deposit Company of Maryland to file a bond in the amount of $78,083.09 with the Clerk of the United States District Court for the Eastern District of Pennsylvania.

2. Upon the filing of such bond, all of the assets of defendant Forbes Leasing and Finance Corporation

in the possession or control of garnishee Girard Bank be and the same hereby are released, and the attachment as against Girard Bank be and the same hereby is dissolved.

3. Upon the said filing, garnishee, Girard Bank, be and the same hereby is dismissed, without prejudice, from the above-captioned litigation.

.....

HENRY STEIN,
Counsel for Plaintiff, Marvin Lebowitz.

.....

LAWRENCE SILVER,
Counsel for Defendant, Forbes Leasing and Finance Corporation.

SO ORDERED, this 14th day of March, 1972:

/s/ EDWARD R. BECKER,
EDWARD R. BECKER,
United States District Court Judge.